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U.S. BANKRUPTCY COURT  
DISTRICT OF DELAWARE

Thursday October 3rd, 2024

Honourable Judge John T. Dorsey  
United States Bankruptcy Court District of Delaware  
824 Market Street North,  
3rd Floor Wilmington,  
DE 19801 United States of America

**Re: FTX TRADING, LTD., et al., Debtors. Case No. 22-11068 (JTD)**

Your Honor,

I am writing this letter in support of the objection filed by Lidia Favario regarding the First Amended Joint Chapter 11 Plan of Reorganization of FTX Trading Ltd. and Its Debtor Affiliates. I would like to share my personal story and express my agreement with the points raised in Ms. Favario's objection.

### **Personal Impact**

My journey in cryptocurrency began in early 2015, driven by a belief in its potential to transform the global financial system. I invested heavily in Bitcoin and Ethereum, viewing them as alternative stores of value resistant to government and monetary authority manipulation.

In late 2017, I left a stable finance career to immerse myself in the crypto industry. After a challenging first attempt and a brief return to traditional tech, I made another life-changing decision in late 2021. I moved to Singapore to pursue a crypto career, leaving behind family and friends in the US. My crypto holdings provided the financial safety net that allowed me to take these career risks.

The year 2022 was brutal for the crypto industry. While companies crumbled, Sam Bankman-Fried and FTX appeared to be a safe haven, buying up defunct companies and courting regulators. Trusting FTX's reputation, I made the grave mistake of depositing my long-held crypto assets with them in the summer of 2022.

In November 2022, I discovered that my cryptocurrency holdings, along with those of other FTX customers, had been stolen by Sam Bankman-Fried and FTX insiders. The shock was indescribable. My world turned upside down as the majority of my savings evaporated instantly.

The aftermath of the FTX insolvency has been a blur of anxiety and sleepless nights. The sudden loss of my life savings has left me reeling, both financially and emotionally. This experience has profoundly impacted every aspect of my life, and the trauma will likely linger for years to come.

### **Financial Impact**

To quote Lidia's objection: "In the recent criminal trial of Sam Bankman-Fried, the U.S. government cited the FTX Terms of Service to demonstrate that customers retained title to any "digital assets" deposited on the exchange. Sam Bankman Fried was convicted and sentenced to 25 years in prison for, among other things, misappropriating customer assets. The government's position in that case directly contradicts the current stance of the FTX debtors, who now seek to treat these same assets as their own. If FTX customers' assets were property of the debtors, as the debtors now claim, there would have been no basis for such a harsh criminal conviction. It is inconsistent and illogical for the Debtors to argue that they now have control over customer assets when this very argument was rejected in criminal court."

**The decision by the Debtors to blatantly ignore our property rights is fundamentally inequitable and will significantly impair my recovery and the recovery of many other crypto holders like me:**

1. Crypto holders are receiving a recovery amount significantly below that of USD holders. In fact, USD holders are getting paid more than their original claim value! This is fundamentally inequitable. Why should USD holders get >100% recovery while crypto holders like myself get ~35% recovery. **We are both similarly situated creditors who have had no access to our assets for the last two years, there is no logical reason for USD holders to receive preferential treatment compared to crypto holders.**
2. By not returning my property in kind, the estate is forcing me to "sell" an asset I had not intended to sell thus will have adverse tax consequences that will further damage my recovery value.

<u>Asset</u>	<u>In Kind</u>	<u>Petition Date</u>		<u>Current</u>	
		<u>Price</u>	<u>Value</u>	<u>Price</u>	<u>Value</u>
USD	603.1	\$1	\$603	\$1	\$603
BTC	96.7	\$16,871	\$1,630,647	\$60,562	\$5,853,548
ETH	1,003	\$1,258	\$1,261,774	\$2,336	\$2,343,459
<b>Total</b>			<b>\$2,893,024</b>		<b>\$8,197,611</b>
<b>Recovery</b>			<b>35%</b>		

### **Support for Objection Points**

In addition to sharing my personal story, I would like to express my strong support for the objection filed by Lidia Favario. I agree with and emphasize the following points:

1. **Ownership Rights.** The FTX Terms of Service clearly established that customers retain title and control over their digital assets. These assets should not be treated as part of

the bankruptcy estate. Digital assets (cryptocurrencies) are fungible, meaning 1 BTC = 1 BTC. There is no basis for claiming each BTC is unique and therefore must be traceable. Fungibility is a key feature of cryptocurrencies.

2. **Legal Precedents.** As cited in Ms. Favario's objection, legal precedents such as *Pearlman v. Reliance Ins. Co.* and *Moody v. Amoco Oil Co.* support the principle that a debtor cannot distribute property it does not own among its creditors.
3. **Criminal Trial Implications.** The conviction of Sam Bankman-Fried for misappropriating customer assets contradicts the current stance of the FTX debtors who now seek to treat these same assets as their own.
4. **Delayed Adjudication.** The FTX debtors have failed to adequately address the core issue of property rights under the Terms of Service for 22 months. This critical issue must be resolved before any reorganization plan is confirmed.
5. **Risk of Legitimizing Fraud.** Allowing the current plan to proceed would effectively endorse the very fraud that Sam Bankman-Fried was convicted for, undermining trust in the bankruptcy process.
6. **Request for Relief.** I join Ms. Favario in respectfully requesting that the Court:
  - a. Reject the debtors' proposed reorganization plan in its current form.
  - b. Compel the debtors to seek an adjudication of property rights as outlined in the FTX Terms of Service before any reorganization plan is confirmed.
  - c. Protect the ownership rights of original FTX customers and ensure that the reorganization plan fully respects our contractual and legal rights to our digital assets and equitable treatment under the bankruptcy code

### **Additional Objection**

It has also come to light (after plan voting had concluded I might add!) that a deal seems to have been struck between the debtors and preferred equity holders that would allow them a recovery ahead of customers to the tune of \$230m out of a "Preferred Shareholder Remission Fund". Equity holders should only receive recovery to the extent all FTX customers, including those with ownership rights, are made whole.

I would also request that the court reject this deal that violates the basic claims waterfall that was struck without any visibility to those that voted on the bankruptcy plan.

### **Conclusion**

Your Honor, the crimes committed by Sam Bankman-Fried and other FTX insiders have had far-reaching consequences on my life and the lives of many others. If you allow the plan to pass in its current form you will have enabled significant incremental damage to customers like me who had our property stolen by Sam Bankman-Fried and FTX.

Thank you for your consideration.  
Respectfully submitted,

Robert Shearer

*Robert Shearer*